

111TH CONGRESS
1ST SESSION

S. 44

To amend the Internal Revenue Code of 1986 to treat income earned by mutual funds from exchange-traded funds holding precious metal bullion as qualifying income.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 2009

Mr. ENSIGN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to treat income earned by mutual funds from exchange-traded funds holding precious metal bullion as qualifying income.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. INCOME EARNED BY MUTUAL FUNDS FROM EX-**
 2 **CHANGE-TRADED FUNDS HOLDING PRE-**
 3 **CIOUS METAL BULLION TREATED AS QUALI-**
 4 **FYING INCOME.**

5 (a) IN GENERAL.—Section 851 of the Internal Rev-
 6 enue Code of 1986 is amended by adding at the end the
 7 following new subsection:

8 “(i) BULLION EXCHANGE-TRADED FUNDS.—

9 “(1) IN GENERAL.—In the case of any interest
 10 in a trust which is described in paragraph (2)—

11 “(A) such interest shall not fail to be
 12 treated as a security for purposes of this section
 13 by reason of any provision of subpart E of part
 14 I of subchapter J (relating to grantors and oth-
 15 ers treated as substantial owners),

16 “(B) any net income derived from such in-
 17 terest shall be treated for purposes of sub-
 18 section (b)(2) as gain from the disposition of
 19 such interest, and

20 “(C) the last sentence of subsection (b)
 21 shall not apply to such interest.

22 “(2) INTERESTS IN BULLION EXCHANGE-TRAD-
 23 ED FUNDS DESCRIBED.—An interest in a trust is
 24 described in this paragraph if—

25 “(A) such interest is a security (as defined
 26 in section 2(a)(36) of the Investment Company

1 Act of 1940, as amended), determined without
2 regard to subpart E of part I of subchapter J,

3 “(B) such interests are regularly traded on
4 an established securities market in the United
5 States, and

6 “(C) at least 95 percent of the assets of
7 the trust are bullion described in section
8 408(m)(3)(B).”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to taxable years beginning after
11 the date of the enactment of this Act.

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